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# PROHIBITION IN KANSAS

BY ALBERT JAY NOCK

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THE State of Kansas has experimented with constitutional prohibition for a period of thirty-five years. The amendment was submitted by the Legislature at the session of 1879, adopted at the general election of 1880, and the enabling statute became effective May 1st, 1881. At this time Maine was already under State-wide prohibition, but prohibition was never taken very seriously there except as a political issue, and is at present scarcely more than nominal,—in fact, Governor Curtis, in his inaugural address, recommended that the whole pretense be given up. But in Kansas, prohibition has always been taken seriously and its enforcement has commanded the utmost efforts of the State; so while Kansas is not precisely a pioneer in the policy, she doubtless represents the very best that State-wide prohibition can do.

From the standpoint of constructive reform, it is regrettable that students of the alcohol problem usually take so absolute a view of it, tending to isolate it from other social issues and regard it as detached and unrelated. This tendency, so generally observable in most that has been written about Kansas, vitiates many arguments and nullifies many conclusions drawn from her experience. Propagandists on both sides of the question generalize freely from particular features of this experience, in a fashion that is utterly discredited by acquaintance with the history and make-up of the State. This is particularly true of attempts to apply the experience of Kansas to other States, though it also holds good of many attempts to interpret the course of prohibition in Kansas itself. The claims, for instance, of prosperity, public health, sanity, the absence of crime, and such like, are often interpreted in a preposterous relation to the

State's policy of prohibition. Most of this sort of thing, of course, comes from public officials with axes to grind; for politicians in Kansas are quite what the majority of them are elsewhere—quite as hamstrung and time-serving, and quite as prone to compromise. But much of it also comes from studies that purport to be disinterested and even scientific. Only the other day, for instance, I saw a newspaper announcement of an article dealing with Kansas as “a State without saloons and without slums.” The title sufficiently indicates the tenor of the prospectus. It would seem that the most derelict editorial judgment must be aware that under any liquor policy in the world, Kansas could not possibly breed slums. One might as easily think of her as breeding white bears. Slums are an immediate product of industrialism, not of drink. If there were never another drop of liquor in New York, Pittsburgh, Paterson, or any of our industrial centers, the slums would remain as they now are. Kansas has no relatively industrial life worth mentioning, and the wage-earning population of her largest cities is only about equal to the population of the Woolworth Building in New York.

Many Kansans recognize the disservice done the State by these exaggerations, and wish to promote a more intelligent view. One of them said to me that “there are many good things here with which prohibition has nothing to do, and many bad things that it is not responsible for; but, on the whole, it has helped.” This is, I think, a very just estimate. The only question is whether the same result might not have been reached, at less expense of reaction and drawback, by some other method. I must say, too, that I never saw a fairer entertainment of this question than by these men who were supporting the State's policy with all their might. They discussed the weaknesses and drawbacks of prohibition, as well as its excellences, with conspicuous candor. So far were they from fanaticism and the pestilent temptation to generalize from the experience of their own State, that they gave explicit warning against the expectation that even the results obtained there could be reproduced satisfactorily elsewhere. “We have had a terrific fight for thirty years,” said one of them, “and we have won and are satisfied. But any other State that tries it must make up its mind to the same struggle, *and without our initial advantages.*”

These initial advantages are the most important thing

to be kept in mind by the student of State-wide prohibition as a general policy. They should be especially scrutinized by the legislative bodies of other States, who are under pressure to inaugurate a similar policy. We shall consider them presently; but before doing so, it is proper to show the net result of prohibition in Kansas at the present time—to see what the conditions are with which these advocates of the State's policy express themselves as satisfied.

The one direct result is the suppression of the saloon. On the positive side, this is the whole upshot of prohibition. It cannot be too clearly understood or too constantly borne in mind that *prohibition in Kansas does not mean the prohibition of drinking*. It is not directed against drinking. It is directed against the traditional method of retail distribution. There is no objection, apparently, to the method of handling direct to the consumer. The law does not interfere with it, and one hears no complaint. There is no trouble about getting anything one wants to drink, by the simple expedient of having it shipped in. It seems to be well understood in Kansas that the intention of sentiment is fully met by the suppression of the saloon, and there is no attempt to go beyond it. A leading merchant said to me, with the greatest candor: "I have everything in my cellar, just as my neighbors have, from champagne to ginger ale. I drink beer every night. My children drink it whenever they want it. I hope the Federal Government will never make it impossible for me to get it. But I don't know, really, whether I would shoulder a musket sooner to repel a foreign invasion of America, or to keep the saloon out of Kansas!"

The theory is, largely, that by this means liquor is kept out of the general consciousness, and particularly out of the consciousness of the young. There is a great deal to be said for this; yet it ought to be remembered, too, that there is a negative as well as a positive approach to consciousness. A score of times I heard it said in Kansas, and always with a curious air of finality, "Our boys have never seen a saloon in their lives." One appreciates the full value of this, and yet one cannot help wondering what they will do when they do see one, as at some time they almost inevitably will. But without wishing to whittle down an achievement of prohibition by this or any other speculation, the point to be remarked is that the achievement itself is thus sharply defined; and, while very conspicuous and valuable, must yet appear,

from the absolutist point of view, somewhat attenuated.

Now, to abolish the saloon (which, I repeat, is the whole upshot of prohibition in Kansas)—to attain this very considerable result, the State has made sacrifices, in virtue of the method employed, which go far toward counterbalancing the value of the gain. It is distasteful to speak of evasions of the law; they are the stock-in-trade of the propagandist, and perhaps in their nature may not be handled quite scrupulously by anyone, at least in any detail. But speaking as broadly and guardedly as possible, Kansas has repeated the history of every absolutist enterprise since the world began. Promptly with the attempt to enforce prohibition, evasion began to run its squalid course. After the open saloon came a period of indirect licensing. In 1883, two years after prohibition was established, there were forty open saloons in Topeka, doing business under a license to sell certain specified liquors "and other drinks." A town the size of Fort Scott had as many as thirty-two places operating under such licenses. There was a period of the "original package saloon," of the club system, and the institution which became known the country over as the "Kansas drug store." Along with all these, went continually the masked saloon or "blind tiger," maintaining itself more or less precariously by alliance with local politics, frequently licensed by a schedule of raids and fines, until this was stopped by the repulsive expedient of the "ouster" law, whereby public officials can be put out of office incontinently for failure to enforce the law to the satisfaction of the State's attorney. Illicit retail distribution is now chiefly effected by the method known as "bootlegging," and this industry has assumed large proportions all over the State, especially on the southern Missouri border. Bootlegging, unfortunately, has been the principal factor in changing the traffic from lighter drinks, such as beer and wine, to spirits; because the lighter drinks are too bulky to be easily handled. One of the most extensive evasions is in the sale of fortified cider. The Kansas State Board of Health publishes analyses of something over thirty bottled ciders taken from the open market, showing from four to twelve per cent of alcohol. It is questionable whether as many could be found on the market in the three States of New York, New Jersey, and Pennsylvania, put together. Probably these ciders furnish the poorer citizens with the stimulation afforded to the transient by the

ministrations of the bootlegger and to the more affluent by those of the railway and express companies.

One asks oneself whether, after all, the open saloon would not be almost a fair exchange for the reaction produced upon any society by this kind of thing, by the perjury induced, the encouragement of furtive habits, the general spirit of fraud, deceit and hypocrisy, the abeyance of personal responsibility. And even in the direct view, if Kansas children have never seen a saloon, New York children have never been approached by a bootlegger. But too much may not be made of this. The chief point is that New York children may grow up with a just sense of moral values, in this particular, while Kansas children may not. Indeed, the most serious failure which a critic detects in the proposal to enforce temperance by prohibition, is in its utter upsetting of the sense of moral measure and proportion; and Kansas offers the best possible example of a community thus affected. Her intense preoccupation with alcohol has raised the problem in far too high relief and sunk other matters of social policy out of focus; in short, it has exercised the debilitating and retarding influence of any monomania. Undoubtedly the alcohol problem is great and difficult; undoubtedly it needs the direction of much more simple and sincere thought than has yet been put upon it. But to admit it as even a social problem of the first order is making a very handsome concession; while to let it monopolize the field of social thought and the output of social energy is the mere vicious pottering of fanaticism. As early as 1882 one of the public men of Kansas gave warning that "there is no other question either of State policy or economy that absorbs so much public attention. . . . In fact, I believe that I state only the truth when I assert that all other State questions have been and are now completely ignored by the people of the State." There is, unfortunately, no doubt of this; and I repeat that this engrossment, this persistent "intending of the mind" upon alcohol, is the most deplorable by-product of Kansas' long campaign. There are citizens of a more cosmopolitan type who by one means or another have come to take a less parochial view; but the majority magnify the liquor problem and the policy of prohibition to the proportions of absolute monopoly.

The best evidence of this is seen in the insistence on prohibition as a shibboleth to public office. Governor Capper told me with a sort of Ironside pride that it is impossible

for anyone to be elected to any public office in Kansas unless he is sound on prohibition. Thus, obviously, as Burke says, it must become the first business of a public official "still further to contract the narrowness of men's ideas, to confirm inveterate prejudices, to inflame vulgar passions, and to abet all sorts of popular absurdities." The whole history of the movement is a history of terrorism. Governor St. John made a speech at Leavenworth in 1881, proposing a constabulary or bayonet bill for the subduing of evil-doers; proposing suspension of *habeas corpus* and trial by jury, and threatening Leavenworth with loss of appropriations, as he had previously threatened Topeka. When the constitutional amendment was passed, it carried by a majority of but 8,000, and out of a total vote of 201,236 there were 24,630 who did not vote on the amendment at all—a clear indication, fully substantiated by the literature of the period, that the campaign was a mere unwholesome riot of the worst passions and the meanest prejudices, and that the real sentiment of the State was left undetermined. These are but a few items out of a history so sordid and uninspiring that at the end of it one draws a long breath and wonders whether the politics of a nominal democracy must be forever condemned, like Mr. Weller's charity-boy at the end of the alphabet, "to go through with so much to get so little." After all, human life is very complex, and the issues that affect it are many, and are graduated on a fairly distinct scale of importance, if we will but permit ourselves to see them so. But Kansas does not do this, and until her civilization is extended and deepened, she never will.

And this last observation leads, by a connection that will presently be seen, to a consideration of the "initial advantages" which my informant referred to when he spoke of the possible extension of the prohibition policy to other States. They are usually reckoned at two: the absence of industrialism and the absence of large cities. From the standpoint of State-wide prohibition, these are undoubtedly great advantages for Kansas, but other States have them too. Her next-door neighbors, Nebraska and Oklahoma, have them. On the strength of these, therefore, it would seem to be as easy to maintain prohibition in Nebraska, say, as it is in Kansas. But these are not all, nor are they the greatest of the "initial advantages" which Kansas had for prohibition. Prohibition, in the largest view, is simply one

of the modes of self-expression natural to a certain distinct type of civilization, now happily weakening to the point of general disappearance, but surviving in certain overflows and backwaters. Kansas has this type of civilization and has always had it; her neighbors have not. Hence, if prohibition grew with no less difficulty in its native soil than its history in Kansas appears to show, there is a corresponding expectation of greater difficulty with it in an alien soil, such as other States, in greater or less degree, present.

This matter is worth examination. The territory set off by the Kansas-Nebraska Act of 1854, might fairly be termed the American Balkans, as the alembic of national disturbances. The Act was the last in a series of compromise measures intended to reconcile and accommodate two social theories that in their nature could not be reconciled and accommodated. Whether or no President Pierce had entered into any political trade or deal over the matter, the expectation at Washington clearly was that Kansas should be a slave State and Nebraska free. But Congress so constructed the Act as to leave the question open as a measure of home rule for the inhabitants themselves to decide; thus virtually putting a rich premium upon colonization before both the abolitionist and slave-holding parties. The forces of abolition were the more mobile. Immediately upon the passage of the Act, the Legislature of Massachusetts incorporated the Emigrant Aid Society, and a portion of the stream of emigration which hitherto had gone from the free States into the West and Northwest, was now diverted southward into Kansas.

The result was the border warfare. Kansans say that their State was at war with the whole Union for four years before the Civil War broke out, and perhaps it is no very serious exaggeration to say so. We need not digress into the details of the stormy territorial period,—the period of border ruffianism, of squatter sovereignty and martial law, of raids and incursions from Missouri—when Kansas had at different times two armies on her soil, two Legislatures, and four constitutional conventions! One need note but these few outstanding circumstances of Kansas' birth to perceive at once how prohibition unfolded as a natural development of the spirit of the State. Even now, one has but to attend a public meeting in Kansas and survey the expanse of set, serious, unintelligent faces upturned toward Governor Capper or toward some impassioned preacher of separatist



orthodoxy, to imagine perfectly what must have been the reaction of any strong emotion working on all this force of iron prejudice. The great body of Northern colonists came from the Middle West, largely from Ohio, which sheltered the first overflow of New England Puritanism and perhaps, after Kansas, best preserves the Puritan type of social theory. "But," said Mr. Rhodes, in a public address in Kansas a few years ago, "while the Ohio Valley furnished the thews and sinews, it was the spirit of old New England that gave leavening force to this dominant body. *Kansas thus became an expression of nineteenth century Puritanism, and in that fact lies the social significance of the history of our State.*"

Just so; it could not be put better. Brand Whitlock says somewhere that the distinguishing mark of Puritanism is its belief in absolutes—the belief that human beings and human institutions may be absolutely bad or (much more rarely) absolutely good. Whether or no this quite covers the ground, there is at least a full measure of truth in it as far as it goes. But the working social theory of Puritanism certainly postulates the relation between the State and its citizens as that of guardian and ward; and hence it tends continually toward a more and more intimate and personal regulation of conduct. To make this effective, Puritanism depends sheerly upon force. "We must *make* people be good," one Kansan told me; and throughout the State I heard the doctrine of "thy brother's keeper" put forward as an ultimate basis for certain lines of social endeavor which appeared, to say the least, very doubtful. The idea is, in a word, that the way to reform society is by putting as many people as possible in jail; if we can only get enough people in jail, society will be virtuous and everybody happy! I would not represent the individual Kansan as standing at this extreme; I am merely laying bare the general theory on which his civilization is established.

This theory brings forth two serious practical abuses: first, the pernicious confusion of vice with crime and the consequent tendency to erect vice into crime—the confusion of the offence *malum in se*, or that which is opposed to the general reason and conscience of mankind, with the offense *malum prohibitum*, about which the general reason and conscience of mankind is divided. In Kansas, for example, several persons told me that the prohibition law was not

invariably enforced, but that it was, on the whole, enforced as well as the laws against murder and burglary! I was interested, too, in the remark of another citizen, who said naively that a small number of foreigners who had settled in the southeastern part of the State were making trouble about liquor, because they "did not understand the law." Undoubtedly, it is ten to one they did not. The second practical abuse is the intense, hankering interest set up in other people's shortcomings. It would probably be invidious to develop this point fully, or to go far afield in search of examples. Cromwell's legislation and the Blue Laws of Connecticut are historical, however, and illustrate sufficiently this inquisitorial and morbid concern with other people's business, in behalf of some more or less specious notion of public necessity or public good. This trait of Puritanism persists largely in the Middle West, and is scarcely distinguishable from the instinct of the *voyeur* or "peeper." Kansas has no monopoly of it; one can scarcely pick up an Illinois or Ohio paper without reading of the exploits of some new vice crusade or vice commission, or the pawing and puddling of some Pastors' Union. The fetid fascinations of this sort of sluttery, served up as daily news, would be incomprehensible to any spirit but that of Anglo-Teuton Puritanism.

The emigrant settlers of Kansas were full of this social theory—it was bone of their bone, they knew no other—and the savage ruffling of their temper in the border war set it to the consistency of adamant. They went to work to erect a civilization that should express this theory without let or hindrance. The Topeka Convention, for example, seriously proposed that all negroes, slave or free, should be excluded from the State! Circumstances helped them; their immense remoteness saved their work from being sapped by any alien spirit. The population remained homogeneous; it is now ninety-seven per cent. native. Foreign immigration dried up—and no wonder! Governor St. John in 1881 took the ground that the State did not want immigrants "who would grow grapes and who were not willing to give up the beverages they were used to." Even Governor Capper speaks in a similar vein in a magazine article printed only the other day—so little has Kansas been touched by the heat of the melting-pot.

In a circular of the New England Emigrant Aid Society,

sent out July 2, 1855, asking all the clergymen of New England to become members and help raise a fund of \$150,000, the objects mentioned are Freedom, Religion, Education and Temperance—the four very last things, one would say, in view of the history of Puritanism, that a Puritan organization should pretend to meddle with. The last paragraph of the circular sets forth that “traffic in intoxicating liquors scarcely exists in any one of the [Kansas] towns founded with the Company’s assistance, and any attempt to introduce it will be resisted by their citizens.” At the first social gathering held on the site of Topeka, May 17, 1855, were assembled all the people living for miles around (except the Indians!). The four sentiments there proposed were: Our Territory; The Influence of Woman; Our Friends at Home; and The Maine Law; “may it be to Topeka what the main pillar is to the temple of liberty!” The Methodist Church, which from its foundation in America has maintained the Puritan attitude towards liquor, was organized in Kansas in 1845, and is now numerically the leading denomination; while the Presbyterian church has been expressing what Burke finely called “the dissidence of Dissent and the protestantism of the Protestant religion,” for nearly as long a period. Many of the earliest title-deeds contain a proviso that liquor shall never be sold on the land, under penalty of reversion. A “Prohibition Colony” came from Illinois and organized in Dickinson County, under a clergyman named Christopher, in 1871. A certain firm, as early as 1883, gave notice that if any employee were seen in saloons at any time or known to drink intoxicating liquor “in any form or degree,” he would be discharged; and within a week after the order, they did actually discharge thirty men.

All this tends to show how prohibition came to pass in Kansas, and how much more her “initial advantages” amount to over mere geography. She was colonized by the unqualified Puritan temper, seven times refined to the acme of truculence in the fires of the Border War. She has kept inviolate her intellectual and spiritual isolation, her inaccessibility to ideas, and hence her dominant social theory is as stoutly Puritan as it ever was, and her general civilization faithfully reflects it.

Now the trouble with Puritan civilization is that it provides for too few needs of the human spirit. The defenders of Puritanism have always been hard put to it to answer the

question which is surely the most natural in the world: **If Puritan civilization is so good, why did it so soon collapse? Above all, why did it collapse as promptly in New England as in Old England?** Cromwell did great things for Britain; the Puritan fathers surely did great things for the Colonies. Why, then, did the English people almost immediately swing back to the false and vicious system of the Stuarts, and why did New England so shortly fall away from Puritan traditions and social theory?

Puritanism wholly satisfied the one great instinct of workmanship, of expansion. One can *do business*, as the saying is, under Puritanism. It largely satisfies the instinct of morals—with some important qualifications which we need not dwell on here. But the human spirit can not work exclusively along the lines of business and morals; it has other instincts, too, which a civilization that has hope of permanence must meet and satisfy. The instinct of social life, of intellect and knowledge, of beauty, of religion—these Puritanism never satisfied, nay, it maltreated and suffocated them. Puritanism is overspread with the curse of hardness, and the penalty that nature puts upon hardness is hideousness, dismalness. Human society swings away from Puritanism because the pressure on its obtunded instincts of intellect, beauty, religion and social life became more than it could bear.

In 1881 an intending immigrant in South Germany wrote a letter to some one in Kansas in which he hit the precise note of criticism. “None of my friends can imagine themselves living under such stringent laws,” he says, “and they think *it cannot be good where such laws are considered necessary.*” Quite so; a civilization that does not meet these elemental demands of the human spirit offers a life that *cannot be good*, a life that is illiberal and dissatisfying, and no amount of business opportunities and factitious morals can reconcile one to it. We ourselves, generally speaking, have perhaps not yet sufficiently emerged from the influence of Puritanism to be as keenly aware of this as our immediate descendants will be; but the foreigner, especially of the Latin or Slav type, imaginative, sentimental and well-mannered, is aware of it at once.

All this is by no means paving the way for an intimation that Kansas ought to enlarge and deepen her civilization by opening houses. Far from it. I heartily congratulate her on

getting rid of the saloon, and I hope it will never come back. I am merely showing what seems to me to be the chief ground for dissatisfaction with the method employed in getting rid of it, and for believing that it cannot be generally adopted. Nor would I be thought to appraise and measure civilization by its distance from Broadway. The cities of Arles and Ancona are about the size of Topeka, quite as far from Broadway, figuratively, as Topeka, and like Topeka, they have no saloons. But the quality of life in Arles and Ancona is very different from the quality of life in Topeka; and one need see but a very little of it to find it so. The civilization of French and Italian cities has its weaknesses, no doubt; it fails somewhat in meeting the instinct of expansion, for example. But it meets the instinct of knowledge and intellect; ideas are current there, and are handled disinterestedly and not with the fierce, dogged, provincial obstinacy that Puritanism employs towards ideas not of its own devising. Moreover, this civilization has the invincible attraction of beauty and amenity, it is *amiable*; and the civilization of Puritanism is not.

As the shadow of Puritanism declines, we shall get a new light reflected from older civilizations upon many social difficulties that have so far refused to yield to the method of stark, unintelligent repression which is the only one that Puritanism knows how to employ. With regard to the one problem which Kansas has been so grotesquely misled by her Puritan strain as to consider paramount<sup>1</sup> it is interesting to find that a citizen of Kansas wrote in 1881 as follows:

Had it become known abroad that Kansas had succeeded in establishing a law restricting the manufacture and sale of spirits and confining the sale of wine, beer and cider to respectable resorts . . . we should have had the approval of all good people, the cheerful co-operation of all respectable foreigners, and the example would have been one worthy of imitation.

There is no doubt of this. It is owing to this simple and constructive expedient that the liquor problem, which has proved so refractory in the Puritan civilizations of England and America, has been so handily managed by civilizations of a different type. The above was written at the time when

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<sup>1</sup>For example, to the eye of sober judgment the problem of the increase of tenant farming is much more serious in Kansas than the problem of alcohol ever was or could be.

prohibition was being seized on to bolster the shaky fortunes of the Republican party in Kansas, and it fell on the deaf ear of Puritanism. Yet how easily otherwise such a measure might have prevailed then and might prevail now, whether the issue be regarded as local, State or national! A differential tax, graded according to alcoholic content, and a modification of the saloon such as the Public House Trust and (since the war) the British Board of Control are effecting in England—making the saloon a place of decent resort and general refreshment like the *Bierhalle* or the Continental café: these two logical and lucid measures alone would reach the core of the problem which prohibition merely fumbles, and carry it nine-tenths of the way toward final solution.

I suggested this to Mr. William Allen White, who is probably the best informed and the ablest native critic of Kansas affairs. He replied with sterling frankness that it was the best way if it could be had, but that it could not be had in Kansas. If the liquor trade, he said, had ever offered a suitable compromise proposition in good faith, there would never have been prohibition in Kansas, and if it were not for the defensive alliance between the manufacturers of wine and beer on the one hand and the manufacturers of spirits on the other, there would be no prohibition there now. But as things are, prohibition is the less of two evils, and would have his advocacy.

Insight into the real nature of the problem, like this on the part of Mr. White, argues favorably for practicable reform. With the inevitable weakening of the civilization and social theory that maintains it, prohibition must inevitably weaken and be found wanting; and that time is near at hand. Allowing a maximum for the force of a crude and unintelligent Puritanism in the public and an equally crude and unintelligent Bourbonism in the trade, there still must be in both, even now, a force of sound critical opinion that might unite on a policy that other countries have tried and found to be at once simple, constructive, and satisfactory.

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